

1 WILLIAM R. TAMAYO (CA Bar No. 084965)  
2 JONATHAN T. PECK (VA Bar No. 12303)  
3 CINDY O'HARA (CA Bar No. 114555)  
4 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
5 San Francisco District Office  
350 The Embarcadero, Suite 500  
6 San Francisco, CA 94105  
7 Telephone No. (415) 625-5653  
8 Facsimile No. (415) 625-5657

9 Attorneys for Plaintiff  
10 Equal Employment Opportunity Commission

11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

13 EQUAL EMPLOYMENT OPPORTUNITY  
14 COMMISSION,

15 Plaintiff,

16 v.

17 NOB HILL PROPERTIES, INC. dba  
18 HUNTINGTON HOTEL,

19 Defendant.

Civil Action No.

COMPLAINT

Civil Rights - Employment  
Discrimination

JURY TRIAL DEMAND

NATURE OF THE ACTION

20 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the  
21 Civil Rights Act of 1991 to correct unlawful employment practices on the basis of  
22 national origin and retaliation and to provide appropriate relief to Mr. Martin Roman  
23 who was aggrieved by Defendant's unlawful practices. Plaintiff alleges that Defendant,  
24 Nob Hill Properties, Inc., dba Huntington Hotel, unlawfully refused to assign Mr.  
25 Roman to the position of Room Service Relief Captain because of his national origin,  
26 Mexican. Plaintiff further alleges that Defendant subjected Mr. Roman to retaliation  
27 after he filed a charge complaining about the aforementioned national origin  
28 discrimination with Plaintiff Equal Employment Opportunity Commission.

## JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706 (f) (1) and (3) of Title VII of the Civil Rights Act of 1964, as amended (Title VII), 42 U.S.C. §2000e-5 (f) (1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981(a).

### INTRA-DISTRICT ASSIGNMENT

2. This action is appropriate for assignment to the San Francisco/Oakland division because the unlawful employment practices alleged were committed within the County of San Francisco, the employment record relevant to the unlawful practices are located in the County of San Francisco, and because Defendant's principal place of business is in the County of San Francisco.

**PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (“Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Nob Hill Properties, Inc., dba Huntington Hotel ("Defendant") has continuously been, and is now, a California corporation, qualified and doing business in the state of California and the city of San Francisco and has continuously had and does now have at least 15 employees.

5. At all relevant times, Defendant has continuously been, and is now, an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

//

//

11

**STATEMENT OF CLAIMS**

**FIRST CLAIM FOR RELIEF**

**Violation of Title VII of Civil Rights Act Based on National Origin Discrimination**

6. More than thirty days prior to the institution of this lawsuit, Mr. Martin Roman filed charges with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least October 2000, Defendant has engaged in unlawful employment practices of discrimination based on national origin in violation of Section 703 (a) (1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by refusing to assign Charging Party Martin Roman ("Charging Party") to the position of Relief Room Service Captain because of his national origin.

8. The effect of the practices complained of above in paragraph 7 has been to deprive Charging Party of equal employment opportunities and otherwise adversely affect his employment status because of his national origin.

9. The unlawful employment practices complained of above in paragraph 7 were and are intentional.

10. The unlawful employment practices complained of above in paragraph 7 were done with malice and/or reckless indifference to the federally protected rights of Charging Party.

**SECOND CLAIM FOR RELIEF**

**Violation of Title VII of Civil Rights Act Based on Retaliation**

11. Plaintiff Commission hereby incorporates the allegations of paragraphs 1 through 7 above as though fully set forth herein.

12. In addition to the above-referenced discrimination based on national origin, subsequent to and/or concurrent with said discrimination based on national origin, beginning on or about November 19, 2003, Defendant has engaged in unlawful employment practices in violation of Section 704 (a) of Title VII, 42 U.S.C. § 2000e-3 (a), by subjecting Charging Party to adverse employment actions, including continued

1 refusal to assign Charging Party to the position of Relief Room Service Captain, in  
2 retaliation for his having made a charge of discrimination,

3 13. The effect of the actions complained of in paragraph 12 above has been to  
4 deprive Charging Party of equal employment opportunities and otherwise adversely  
5 affect his status as an employee because of his protected activity.

6 14. The unlawful employment practices complained of in paragraph 12 above  
7 were intentional.

8 15. The unlawful employment practices complained of in paragraph 12 above  
9 were done with malice or with reckless indifference to the federally protected rights of  
10 Charging Party.

11 **PRAYER FOR RELIEF**

12 Wherefore, the Commission respectfully requests that this Court:

13 A. Grant a permanent injunction enjoining Defendant, its officers, successors,  
14 assigns, and all persons in active concert or participation with it, from engaging in  
15 discrimination based on national origin and/or retaliation against its employees.

16 B. Order Defendant to institute and carry out policies, practices, and  
17 programs which provide equal employment opportunities for persons of Mexican  
18 national origin and persons who make charges of discrimination, and which eradicate  
19 the effects of its unlawful employment practices.

20 C. Order Defendant to make whole Charging Party by providing appropriate  
21 back pay, lost wages and benefits with prejudgment interest, and other affirmative relief  
22 necessary to eradicate the effects of its unlawful employment practices.

23 D. Order Defendant to make whole Charging Party by providing  
24 compensation for past and future pecuniary losses resulting from the unlawful  
25 employment practices complained of above, including but not limited to medical  
26 expenses or other out of pocket expenses in amounts to be determined at trial.

27 E. Order Defendant to make whole Charging Party by providing  
28 compensation for past and future non-pecuniary losses resulting from the unlawful



1 practices complained of above, including but not limited to pain and suffering,  
2 emotional distress, indignity, loss of enjoyment of life, loss of self-esteem and  
3 humiliation, in amounts to be determined at trial.

4 F. Order Defendant to pay Charging Party punitive damages for its malicious  
5 and reckless conduct complained of above, in amounts to be determined at trial.

6 G. Grant such further relief as the Court deems necessary and proper in the  
7 public interest.

8 H. Award the Commission its costs of this action.


9 **JURY TRIAL DEMAND**

10 Pursuant to the provisions of Federal Rule of Civil Procedure 38(b), Plaintiff  
11 hereby demands a jury trial.

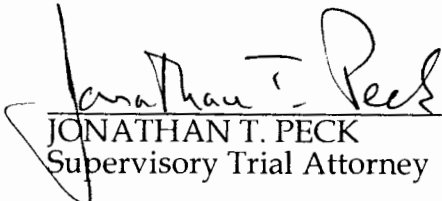
12  
13 JAMES L. LEE  
14 Deputy General Counsel  
15 GWENDOLYN YOUNG REAMS  
16 Associate General Counsel

17 EQUAL EMPLOYMENT OPPORTUNITY  
18 COMMISSION  
19 Office of the General Counsel  
20 Washington, DC 20507

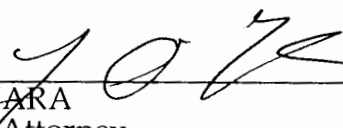
21 Dated: 3/21/06

22   
23 WILLIAM R. TAMAYO  
24 Regional Attorney

25 Dated: 3/21/06

26   
27 JONATHAN T. PECK  
28 Supervisory Trial Attorney

29 Dated: 3/20/06

30   
31 CINDY O'HARA  
32 Senior Trial Attorney

33 EQUAL EMPLOYMENT OPPORTUNITY  
34 COMMISSION  
35 San Francisco District Office  
36 350 The Embarcadero, Suite 500  
37 San Francisco, CA 94105